

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

474H0078

HOUSE BILL NO. 1007

Introduced by: The Committee on Local Government at the request of the Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain election recount provisions.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 12-21-2 be amended to read as follows:

4 12-21-2. The county recount board of each county which conducts a recount authorized by
5 this chapter shall consist of a recount referee and two voters of the county to be appointed by
6 the presiding judge of the circuit court for that county, ~~providing~~ and shall provide for
7 representation of the ~~different two~~ two political parties with the largest party registration in that
8 county. The recount referee shall be a duly qualified member of the bar of the State of South
9 Dakota and a member of the political party which polled the largest number of votes for
10 Governor in the county in the last gubernatorial election. All members of the recount board shall
11 act in good faith and with impartiality.

12 Section 2. That § 12-21-20 be amended to read as follows:

13 12-21-20. The county auditor, immediately on the due filing of any petition for a recount or
14 upon receipt from the secretary of state of notice of such filing with the secretary of state, shall
15 notify in writing, with the seal of the auditor's office, the presiding judge of the circuit court for



1 the auditor's county. The presiding judge shall appoint a board, pursuant to § 12-21-2, for each
2 county in the circuit in which a recount is to be conducted. The presiding judge may appoint the
3 board anytime within thirty days prior to a primary or general election or upon the filing of the
4 petition for recount. The board shall then convene in the office of the county auditor on the
5 second Monday at ~~ten~~ nine a.m. following the filing of the petition. However, if the second
6 Monday is a legal holiday, the board shall convene at ~~ten~~ nine a.m. of the day following. The
7 county auditor shall provide the recount board with laws, rules, and forms to use in conducting
8 the recount. The board shall then proceed with the recount.

9 Section 3. That § 12-21-21 be amended to read as follows:

10 12-21-21. Any county recount board, after convening at the time and place provided by this
11 chapter, may adjourn its proceedings to any other more convenient public place at the county
12 seat.

13 Section 4. That § 12-21-34 be amended to read as follows:

14 12-21-34. ~~Both the~~ The certificate as to the result of the recount and the certificate as to
15 disputed ballots shall be filed and preserved by the county auditor as public records ~~for at least~~
16 ~~one year after such recount and they shall be opened only under order of a court of competent~~
17 ~~jurisdiction.~~

18 Section 5. That § 12-21-39 be amended to read as follows:

19 12-21-39. ~~Upon receipt by the~~ The secretary of state of certificates by county recount boards
20 ~~required to be forwarded to the secretary of state, the secretary of state shall file the same, and~~
21 ~~as soon as~~ all certificates involved in the recount as to any office, nomination, position, or
22 question ~~that~~ that have been received, ~~the~~ from the county recount boards. The secretary of state shall
23 fix a time and place as early as reasonably possible for reconvening the State Board of
24 Canvassers and shall notify the members of ~~such the~~ the State Board of Canvassers ~~thereof. Such,~~

1 The State Board of Canvassers shall reconvene at the time and place so designated and recanvass
2 the official returns as to ~~such~~ the office, nomination, or position, as corrected by ~~such~~ the
3 certificates, ~~and~~. The State Board of Canvassers shall make a new and corrected abstract of the
4 votes cast as to ~~such office, nomination, or position which shall state whom they~~ and declare the
5 person elected or nominated as the case may be; or the determination of any ~~such~~ question;
6 ~~which~~. The corrected abstract shall be signed by the members of the State Board of Canvassers
7 in their official capacities ~~and as state canvassers~~, and shall have the great seal of the state
8 affixed, ~~and which~~. The corrected abstract shall be filed ~~and recorded~~ by the secretary of state
9 ~~in the "election book."~~

10 Section 6. That § 13-7-19.3 be amended to read as follows:

11 13-7-19.3. A recount shall be conducted ~~when~~ if, within five days after completion of the
12 official canvass of a school district regular or special election at which a question is approved or
13 disapproved by a margin not exceeding two percent of the total votes cast in the election, any
14 three registered voters of the school district file a petition duly verified by ~~them~~ such voters,
15 setting forth that they believe a recount will change the outcome. A recount board shall be
16 appointed by the business manager who shall appoint one person on each side of the question
17 and one person who shall be mutually agreed upon by the other two appointed. ~~The recount shall~~
18 ~~be conducted according to the provisions of § 13-7-19.1.~~ The person having custody of the
19 ballot boxes containing the ballots to be recounted shall produce the ballot boxes before the
20 recount board. Any question arising on the recount shall be determined by majority vote of the
21 recount board. The recount shall proceed as expeditiously as reasonably possible until completed.